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SUBJECT: EAST AFRICAN LEGISLATURE COULD BE VEHICLE FOR U.S.
REGIONAL GOALS

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¶1. SUMMARY: On January 20, Ambassador Lenhardt paid a courtesy call on Speaker Abdirahin Abdi (Kenya) of the East African Legislative Assembly (EALA). Abdi said the EALA had a legislative mandate through the treaty that bonded the member states. Bills passed by the EALA had the force of law among all members. Abdi said trans-border issues like trafficking or money laundering, and perhaps anti-terrorism and human rights guarantees, were areas where the EALA could play a key role. On expansion, Abdi said that Sudan and Somalia had sent inquiries on affiliation, but nothing would be entertained until both countries underwent elections. Abdi hoped for more parliament-to-parliament cooperation and that U.S. legislators would be encouraged to visit. U.S. demarches could be served to members of the EAL in capitals or in Arusha directly to Committee heads. END SUMMARY.

¶2. On January 20, Ambassador Lenhardt paid a courtesy call on Speaker Abdirahin Abdi (Kenya) of the East African Legislative Assembly (EALA), based in Arusha, Tanzania. At the outset of the meeting, Ambassador Lenhardt quipped that the motto for the EAC should be "Back to the Future" since in colonial times and early independence Kenya, Tanzania and Uganda (and, briefly, an independent Zanzibar) were part of a regional union with a shared currency. Abdi laughed in agreement. He added that many who were against moves toward regional consolidation, like a common Customs Union, were now singing its praises. Inter-regional trade had in fact risen. As to a common currency- the European Union's "euro" was an example of what can be achieved with political will. Joining the smaller economies of East Africa together should be easier. On the Customs Union, the trick now was to manage expectations. Now that it has come into force, most recently there have been three Ministers saying three very different things to three different audiences, Abdi said.

¶13. Ambassador Lenhardt said that President Obama wanted Africa within the global strategic framework as a partner, not a dependent. He said he attended an October 2009 conference of regional U.S. Ambassadors with the outcome being that U.S. Missions in East Africa would take on more of a regional perspective. East Africa was a growing market, and regional infrastructural integration would be key to the future. Abdi agreed, saying that the latter was not an "option," but rather a necessity.

THE EALA... AS THE VOICE OF THE PEOPLE

¶14. Abdi said the real function of the EALA was to represent the people during East Africa's move toward political federation. There were nine delegates from each member state (45 total). Each state picked its candidates a little differently. All were chosen by his or her country's parliaments, but were not from them. As the "main arm of the people," the purpose of the EALA was to "educate the masses." Abdi argued that since the Secretariat "was mostly technocrats," few people really knew what was going on in Arusha. By holding EALA plenaries in rotation throughout each of the member states, locals could get to know the work of the EALA and, by extension, the EAC as a whole.

...AS A FAST TRACK FOR REGIONAL LAWS

¶15. Abdi said that what was special about the EALA was that it had a legislative mandate through the treaty that bonded the member states together. Unlike the consultative assemblies of SADC (Southern Africa Development Community), COMESA (Common

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Market of Eastern and Southern Africa) and other regional entities, bills passed by the EALA had the force of law in all member states. Only the EU Parliament had similar authority. Moreover, he asserted, laws passed by the EALA did not need to be duplicated or re-adopted by the parliaments of member states. This "blank check," as Abdi called it, had never really been put to practice. However, on trans-border issues where there seemed to be a consensus of the five heads of state (Abdi named issues like trafficking or money laundering, perhaps anti-terrorism and human rights guarantees)-- perhaps the EALA could play a key role. Many such issues were agreed to in principal by individual states but laws were slow to come by given the pace of nascent African assemblies. Currently, regional legislation was top-down: agreements like the Customs Union were signed by heads of State, published as law but then had to be adopted domestically. Not all regional statutes had to go this route, Abdi said.

¶16. In practice, Abdi said, bills debated in the EALA came from the Executive Branch or the Secretariat, but in principal, bills could come from the floor of the Assembly. Such bills might be harder to implement, however, as there would need to be buy-in from a majority of delegates from each country. The only bill-from-the-floor in recent times is a proposal to form a Regional Election Commission that would conduct general elections in all member states yet would be independent of each ruling government, accountable through the EAC (East African Community) Abdi said he personally thought it was a good idea given the problems of elections in all member states and recalling in particular violence in Kenya and Zanzibar elections. Nonetheless, he thought such a move would have to wait until full political federation, since such an organization would push the limits of sovereignty and probably infringe on the constitutions of member states.

...AND AS CONFLICT RESOLVER

¶17. As for a role in monitoring elections, Abdi said that it had been done, but an EALA-backed monitoring report on the Kenya elections had been used by the EU in its human rights

reports, causing the Kenya delegation to vote against such measures. Meanwhile, three states are scheduled to hold elections this year- Burundi, Rwanda and Tanzania- so this year might not be so smooth, Abdi said.

¶ 8. Abdi noted that there were seven committees of the EALA. The "Regional Affairs" Committee had a useful possible role for conflict resolution. On Tanzania, Abdi said Tanzania used Zanzibar and the Union issue as an excuse to slow-roll Tanzania's integration into the commonwealth. Tanzanian politicians needed to show leadership to allay fears. Sometimes Tanzanian leaders pointed conflicts in the other partners-between Rwanda and Burundi, within Uganda and the Kenyan elections, saying "we don't have those problems here and don't want them here through the EAC." Abdi said that maybe Tanzania could be more optimistic and say the answer was for Tanzania "not to import conflict but to export peace." Meanwhile, other member states might help with the issue of Zanzibar. The point was that in this day in age there were no conflicts that were solely a partner state issues alone. Turmoil in one state affected the whole region. Meanwhile, the joint union of functioning states (i.e., the EAC) could serve as a bulwark against the spread of "chaos" from just outside the region, Abdi said.

STILL COMING TOGETHER

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¶ 9. A more practical role for the EALA was to control the budget of the various EAC organs. Donor partners still had a broader say in that regard than the actual EALA, Abdi admitted, but the EALA had the power to re-allocate monies. Sweden, Denmark and Ireland were EALA's biggest donors, but there was just enough money for each EALA committee to have but one activity per year. A key goal was to have a professional staff. Of the 27 who were funded and trained during the last session of the Legislature, Abdi said, only six returned for the present session.

¶ 10. All in all, Abdi noted that the EALA was only eight years old. Sure, there were problems, but by-and-large the organization worked better than some others. He admitted to a rivalry with the Executive Secretariat (and between him and Secretary-General Mwapachu) but said such competition was healthy for democracy. More broadly, there had been issues of fund oversight, but donors were becoming more rigorous in inculcating accountability. Overall, Abdi said parliaments throughout Africa have been very weak. As an aside, he commented that Tanzania's legislature had "been becoming quite bold." This was healthy, and he hoped it was spreading in the region. Rwanda's legislature was the only really transparent parliament in his view, while Burundi remained "a real challenge."

¶ 11. On expansion, Abdi said that Sudan and Somalia had sent inquiries on affiliation. Abdi said that nothing along those lines would be entertained until both countries underwent elections. Ambassador Lenhardt noted that sometimes the possibility of eventual integration could cause states to modify and mature.

¶ 12. Abdi hoped for more parliament-to-parliament cooperation and that visiting U.S. Congressmen would be encouraged to visit. Likewise, the U.S. could send notes on areas of cooperation-- demarches could be served to members of the EALA in capitals or in Arusha directly to Committee heads.

DETAILS OF THE EAST AFRICA LEGISLATIVE ASSEMBLY (EALA)

¶ 13. The East African Legislative Assembly (EALA) is the independent, legislative arm of the East Africa Community. It was formally inaugurated by the Heads of State of the original three EAC Partners States (Kenya, Tanzania and Uganda) at its

first sitting in Arusha on November 30, 2001. The First Assembly served from 2001-2006. In 2007 Hon. Abdirahin Haithar Hajji Abdi, from Kenya, was elected as the Speaker of the Second Assembly and will serve until June 2012.

¶14. The election of Abdi was controversial in that the EAC unanimously agreed that a Kenyan should be Speaker (since Mwapachu, a Tanzanian, was EAC Secretary-General). However, there was not agreement in the Kenyan Parliament as to which political party would hold the Speaker's position. The wrangling went on for some months until Abdi, from the Kenya African National Union (KANU) party finally was agreed upon.

MANDATE AND FUNCTIONS OF EALA

¶15. Article 49 of the EAC Treaty establishes EALA as the legislative organ of the Community. Like most legislatures EALA has as its core functions legislating, oversight and representation. Article 49 further states that EALA:

--Shall liaise with the National Assemblies of Partner States

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on matters relating to the Community;

--Shall debate and approve the budget of the Community;

--Shall consider annual reports on the activities of the Community, annual audit reports of the Audit Commission and any other reports referred to it by the Council;

--Shall discuss all matters pertaining to the Community and make recommendations to the Council as it may deem necessary for the implementation of the Treaty;

--May for purposes of carrying out its functions, establish any committee or committees for such purposes as it deems necessary.

¶16. EALA maintains seven standing committees: Accounts; Agriculture, Tourism and Natural Resources; General Purpose; House Business; Legal, Rules and Privileges; Regional Affairs and Conflict Resolution; and Trade Communication and Investment. EALA may also appoint Select Committees as needed. The composition and leadership of each of these Committees is equally shared among the Partner States.

EALA MEMBERSHIP/STAFF

¶17. Membership of EALA currently stands at 52, with nine Elected Members from each of the five EAC Partner States and seven Ex-officio Members. Elected Members are voted into their positions by their respective National Assemblies, though not from the ranks of those Assemblies. The Treaty for the Establishment of the East African Community requires that Elected Members should represent the "diversity of views present in their own National Assemblies," and also that their selection meets certain criteria for gender balance. As such, EALA members come from diverse backgrounds such as business, NGOs, retired civil servants and politicians. Aside from the latter, many have little or no parliamentary experience.

¶18. The Ex-official Membership of EALA consists of one Minister from each partner state responsible for East African Community Affairs (currently there are five Ministers; Assistant Ministers may participate in the Assembly when Ministers are not present. (For Tanzania, Deputy Minister for East African Cooperation Mohamed Aboud performs that duty.) The Secretary General of the EAC and the Counsel to the Community are also Ex-officio Members. They may participate in debates but have no right to vote in the Assembly. The Ex-officio Members report to EALA on the implementation of the Treaty and any other issues of interest to the Partner States.

¶19. The current staff compliment at EALA is 23, 13 at

professional level and 10 in the general staff category.

LENHARDT